

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

JAIME DURAN,

Petitioner,

v.

**Civil Action No. 3:05CV46
(BROADWATER)**

DOMINIC GUTIERREZ, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled matter came before the Court for consideration of Magistrate Judge James E. Seibert's Report and Recommendation, filed on August 30, 2005. The petitioner did not file objections to the Report.

In his Report Magistrate Judge Seibert indicates that the Petitioner has failed to pay the \$5.00 filing fee or file a motion to proceed without payment of fees. Accordingly, the Magistrate's Report and Recommendation is hereby **ORDERED** adopted. The above styled Petition is **DISMISSED WITHOUT PREJUDICE**. This matter is **ORDERED STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the Petitioner and all counsel of record herein.

It is so **ORDERED**.

DATED this 4th day of May 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE